

7 FAM 760 OTHER SERVICES FOR SEAMEN

(TL:CON-4; 12-30-83)

7 FAM 761 ADMINISTRATIVE FUNCTIONS

7 FAM 761.1 Voting Overseas by Seamen

See 7 FAM 1500 for guidance concerning absentee voting overseas.

7 FAM 761.2 Personal Mail for Seamen

A post may accept mail addressed to seamen on vessels of the United States and either hold it or forward it as appropriate. A ship's officer or a member of the crew may pick up mail for the vessel. Posts are not to use public funds to pay postage or customs charges levied against personal mail or packages addressed to seamen.

7 FAM 761.3 Reporting Illegal Shipments of Seamen

Consular officers must report to the Department all cases of illegal shipment of seamen which come to their attention, whether the shipments have been made in U.S. or foreign ports. Supporting evidence, including affidavits, are also to be included in these reports. When a seaman is returned to the United States, a telegram is to be sent to the Department (CA/OCS/CCS), giving the name of the seaman, the scheduled port of debarkation, and the date of departure from the foreign port. "Shanghaiing" of seamen is defined and punishment provided for in 18 U.S.C. 2194.

7 FAM 761.4 Log Book

a. Requirement to Maintain

Every vessel making voyages from a U.S. port to any foreign port, or being of a burden of 75 tons or more, from an Atlantic port to a Pacific port, or vice versa, is required by statute to have an official log book to record required information (46 U.S.C. 201 through 203).

b. Certification of Entries

At the request of the master or mate of a vessel, a consular officer may certify an entry in the log book concerning an event of which the consular officer has personal and positive knowledge. Consular officers are cautioned against certifying entries in log books concerning events outside their personal knowledge.

7 FAM 761.5 Immigration Requirements

In addition to the documents specified in section 7 FAM 742, vessels of the United States must deliver manifests of inbound passengers to the immigration officers at the port of arrival. These should be prepared on Form I-418, Certified Crew List, in accordance with the authority contained in Section 231 of the Immigration and Nationality Act and regulations prescribed in 8 C.F.R. Part 231.

7 FAM 761.6 Limitation on Providing Information

Consular officers are not required to provide information regarding entry requirements to vessels clearing from foreign ports for ports in the United States. Knowledge of the law and regulations governing entry at U.S. ports is the responsibility of the master of the vessel.

7 FAM 762 APPOINTMENT OR REMOVAL OF MASTER

7 FAM 762.1 Appointment of a New Master for Registered Vessel

The master of a vessel of the United States must be a native-born or naturalized U.S. citizen, whether appointed in the United States or at a foreign port. The further requirement for a Certificate and Oath of New Master has been abolished.

7 FAM 762.2 Removal of a Master

a. Authority for Removal

When requested, consular officers assist in the removal of a master under the provisions of 46 U.S.C. 227. For their own protection, consular officers must be satisfied that the persons seeking the removal of the master have the requisite authority. If time permits, the consular officer requests instructions from the Department (CA/OCS/CCS).

b. Grounds for Removal

The removal of a master without prior authorization of the owners of a vessel may be made only when the emergency is such that the Department's telegraphic authorization cannot be awaited. If seriously ill or disabled, insane, or guilty of gross misconduct, the master may be removed by the consular officer. Since the master is under contract to the operators, no discharge papers need be executed.

7 FAM 762.3 Wages Due a Master

On discharge of a master in a foreign port, payment of arrears in wages and of extra wages should be made under the same circumstances as for other seamen. However, as masters' contracts with owners are separate from the articles, and as they have usually received and disbursed large amounts for the accounts of the vessel, consular officer cannot always determine the exact amount due. In view of these difficulties, masters usually consent to receive an approximate payment on account and to defer final settlement until their arrival in the United States. If a master insists on receiving wages in full, the consular officer consults the agents of the vessel. If there are no agents at the port or if no agreement can be reached, contact should be made with the Department (CA/OCS/CCS).

7 FAM 763 MARITIME DISASTERS AND SEIZURES

7 FAM 763.1 Responsibilities of the Consular Officer in Disasters and Seizures

A consular officer's jurisdiction in maritime disasters or vessel seizures is governed by statute, treaty provisions, established usage, and by jurisdictional cooperation between the Bureau of Consular Affairs and other agencies and bureaus within the Department. Consular responsibilities extend to certain reporting requirements and to protecting the interests and property of U.S. citizens involved in a maritime disaster. The consular officer should be familiar with all pertinent conventions and treaties in force between the United States and the country of assignment regarding consular jurisdiction covering wrecked or stranded U.S. vessels and their cargoes and effects.

7 FAM 763.2 Preparation of Reports on Disasters

When a vessel of the United States, including an offshore oil rig, is wrecked, lost, or stranded within the consular district or when a vessel, its cargo, or passengers and crew are brought into the officer's jurisdiction after a disaster at sea, a report is to be sent by IMMEDIATE telegram to the Department providing the following information:

- (1) Name of vessel;
- (2) Owner of the vessel and its home port;
- (3) Destination of vessel;
- (4) Circumstances surrounding the disaster;
- (5) Nature of disaster;
- (6) Date of disaster;
- (7) Exact location of disaster;
- (8) Information concerning the safety of the passengers and crew;
- (9) Names of those rescued, killed, injured, or missing; and

(10) Additional information indicating whether the vessel is an actual or a total constructive loss (22 CFR 86.1).

The telegraphic report must be followed by a detailed report, including a statement whether the ship's papers have been saved (22 CFR 86.1)

7 FAM 763.3 Extent of Consular Authority

a. If the captain or owner of the vessel, cargo, or effects is present and capable of taking possession, or if there is a salvage claim attached to the property, the consular officer cannot assume jurisdiction.

b. In the absence of a specific treaty provision on this subject, the consular officer is to be guided by the generally conceded custom in the country of assignment. In the case of a cargo of foreign origin which is brought into a country from a wrecked or stranded vessel, the rule in the United States is that its cargo is exempt from customs duties if it is transhipped or reloaded under customs supervision and taken out of the country. Consular officers should attempt to have similar treatment in a foreign country for cargo belonging to U.S. citizens which is brought in from a wrecked or stranded vessel.

c. If rights granted by treaty or acquired by established usage are denied or disregarded, the consular officer should report this immediately to the Department (CA/OCS/CCS).

d. The consular officer must abide by local laws and regulations in the absence of a treaty or an established custom regarding consular jurisdiction in this matter. If under local laws the magistrate or some other official is vested with jurisdiction over the property in question, the consular officer requests permission to assist in proceedings relating to its disposition. If the consular officer's reasonable request in this connection is denied, a statement of the facts together with the supporting evidence are to be sent to the Department (CA/OCS/CCS).

7 FAM 763.4 Effect of Local Court Jurisdiction

When a local court assumes jurisdiction, the consular officer must first be satisfied that the court is competent to adjudicate the claim and that U.S. interests are being accorded fair treatment. If the consular officer determines that the court trying the salvage case is not competent or that U.S. interests are being discriminated against, this is reported to the Department (CA/OCS/CCS). After the salvage claim has been adjudicated, the consular officer may, in the absence of the party in interest, take possession of any effects or monies remaining after settlement of the claim has been made, provided the tribunal will permit their delivery to the consular officer. The consular officer shall then submit a complete report to the Department and await further instructions regarding disposition of the property.

7 FAM 763.5 Coordination of Efforts with the Department

In the few countries where a consular officer is empowered to assume jurisdiction over a salvaged vessel or cargo, the officer notifies the Department promptly and requests that instructions be obtained from the owners as to action to be taken. The consular officer also furnishes an estimate of the funds needed to be deposited with the Department for expenses incurred in carrying out these instructions.

7 FAM 763.6 Safeguarding Vessel and Cargo

Pending receipt of instructions from the owners or from the Department, a guard is to be posted at the wrecked or stranded vessel or over the cargo and effects brought into the consular district from a vessel which has been wrecked or stranded, to prevent pilferage. Necessary expenses incurred in employing a guard for this purpose are chargeable against the property (46 U.S.C. 721)

7 FAM 763.7 Collection and Disposition of Ship's Papers

The consular officer should attempt to collect the ship's papers and documents relating to the vessel, its cargo, and passengers and deliver them to the owners or operators. In cases of death or nonappearance of such persons, the consular officer forwards the papers to the Department (CA/OCS/ CCS).

7 FAM 763.8 Disposition of Unclaimed Property

If the owners of the vessel, cargo, or effects are unknown, the consular officer submits a complete report to the Department and awaits instructions. Upon receipt of authorization from the Department, a consular officer may dispose of unclaimed cargo and effects by procedures established for the disposition of effects of a deceased U.S. citizen (see 7 FAM 200 and 7 FAM 600).

7 FAM 764 FEES AND CHARGES

7 FAM 764.1 U.S. Vessels

No fees are chargeable for services rendered for a public vessel or for a vessel regularly documented under the laws of the United States, regardless of whether the vessel was built in the United States or overseas.

7 FAM 764.2 Foreign Vessels

The fees prescribed under the caption "Services Relating to Vessels and Seamen" in the Schedule of Fees for Consular Services, Items 30-36 (see section 7 FAM 052), shall be charged and collected for services rendered for foreign vessels, except as provided for in section 7 FAM 763.6 .

7 FAM 764.3 Vessels Documented Under the Laws of a Protected Power

When an overseas post is charged with representing the interests of a foreign country, and the function of representation includes the performance of services for vessels and seamen of that country, the rule set forth in 7 FAM 1000 on charging fees will apply.

7 FAM 765 THROUGH 769 UNASSIGNED